

## **§ 983.54**

(b) *Quality.* The committee may, with the approval of the Secretary, establish regulations regarding the testing of minimal quantities of pistachios for quality.

[74 FR 56540, Nov. 2, 2009]

### **§ 983.54 Commingling.**

Certified lots may be commingled with other certified lots, but the commingling of certified and uncertified lots shall cause the loss of certification for the commingled lots.

[74 FR 56540, Nov. 2, 2009]

### **§ 983.55 Reinspection.**

The Secretary, upon recommendation of the committee, may establish rules and regulations to establish conditions under which pistachios would be subject to reinspection.

[69 FR 17850, Apr. 4, 2004. Redesignated at 74 FR 56540, Nov. 2, 2009]

### **§ 983.56 Inspection, certification and identification.**

Upon recommendation of the committee and approval of the Secretary, all pistachios that are required to be inspected and certified in accordance with this part shall be identified by appropriate seals, stamps, tags, or other identification to be affixed to the containers by the handler. All inspections shall be at the expense of the handler, *Provided*, That for handlers making shipments from facilities located in an area where inspection costs for inspector travel and shipment of samples for aflatoxin testing would otherwise exceed the average of those same inspection costs for comparable handling operations located in Districts 1 and 2, such handlers may be reimbursed by the committee for the difference between their respective inspection costs and such average, or as otherwise recommended by the committee and approved by the Secretary.

[74 FR 56540, Nov. 2, 2009]

### **§ 983.57 Substandard pistachios.**

The committee shall, with the approval of the Secretary, establish such reporting and disposition procedures as it deems necessary to ensure that pistachios which do not meet the

## **7 CFR Ch. IX (1–1–11 Edition)**

aflatoxin and quality requirements established pursuant to §§ 983.50 and 983.51 shall not be shipped for domestic human consumption.

[74 FR 56540, Nov. 2, 2009]

### **§ 983.58 Interhandler transfers.**

Within the production area, any handler may transfer pistachios to another handler for additional handling, and any assessments, inspection requirements, aflatoxin testing requirements, and any other marketing order requirements with respect to pistachios so transferred may be assumed by the receiving handler. The committee, with the approval of the Secretary, may establish methods and procedures, including necessary reports, to maintain accurate records for such transfers.

[74 FR 56541, Nov. 2, 2009]

### **§ 983.59 Modification or suspension of regulations.**

(a) In the event that the committee, at any time, finds that by reason of changed conditions, any regulations issued pursuant to §§ 983.50 through 983.58 should be modified or suspended, it shall, pursuant to § 983.43, so recommend to the Secretary.

(b) Whenever the Secretary finds from the recommendations and information submitted by the committee or from other available information, that a regulation should be modified, suspended, or terminated with respect to any or all shipments of pistachios in order to effectuate the declared policy of the Act, the Secretary shall modify or suspend such provisions. If the Secretary finds that a regulation obstructs or does not tend to effectuate the declared policy of the Act, the Secretary shall suspend or terminate such regulation.

(c) The Secretary, upon recommendation of committee, may issue rules and regulations implementing §§ 983.50 through 983.58.

[74 FR 56541, Nov. 2, 2009]

## **REPORTS, BOOKS AND RECORDS**

### **§ 983.64 Reports.**

Upon the request of the committee, with the approval of the Secretary, each handler shall furnish such reports

## Agricultural Marketing Service, USDA

## § 983.71

and information on such forms as are needed to enable the Secretary and the committee to perform their functions and enforce the regulations under this part. The committee shall provide a uniform report format for the handlers.

[69 FR 17850, Apr. 4, 2004. Redesignated at 74 FR 56541, Nov. 2, 2009]

### § 983.65 Confidential information.

All reports and records furnished or submitted by handlers to the committee which include confidential data or information constituting a trade secret or disclosing the trade position, financial condition, or business operations of the particular handler or their customers shall be received by, and at all times kept in the custody and under the control of, one or more employees of the committee, who shall disclose such data and information to no person except the Secretary. However, such data or information may be disclosed only with the approval of the Secretary, to the committee when reasonably necessary to enable the committee to carry out its functions under this part.

[69 FR 17850, Apr. 4, 2004. Redesignated at 74 FR 56541, Nov. 2, 2009]

### § 983.66 Records.

Records of pistachios received, held and shipped by him, as will substantiate any required reports and will show performance under this part will be maintained by each handler for at least three years beyond the crop year of their applicability.

[69 FR 17850, Apr. 4, 2004. Redesignated at 74 FR 56541, Nov. 2, 2009]

### § 983.67 Random verification audits.

(a) All handlers' pistachio inventory shall be subject to random verification audits by the committee to ensure compliance with the terms of the order, and regulations adopted pursuant thereto.

(b) Committee staff or agents of the committee, based on information from the industry or knowledge of possible violations, may make buys of handler product in retail locations. If it is determined that violations of the order have occurred as a result of the buys,

the matter will be referred to the Secretary for appropriate action.

[69 FR 17850, Apr. 4, 2004. Redesignated at 74 FR 56541, Nov. 2, 2009]

### § 983.68 Verification of reports.

For the purpose of checking and verifying reports filed by handlers or the operation of handlers under the provisions of this part, the Secretary and the committee, through their duly authorized agents, shall have access to any premises where pistachios and records relating thereto may be held by any handler and at any time during reasonable business hours, shall be permitted to inspect any pistachios so held by such handler and any and all records of such handler with respect to the acquisition, holding, or disposition of all pistachios which may be held or which may have been shipped by him/her.

[69 FR 17850, Apr. 4, 2004. Redesignated at 74 FR 56541, Nov. 2, 2009]

## EXPENSES AND ASSESSMENTS

### § 983.70 Expenses.

The committee is authorized to incur such expenses as the Secretary finds are reasonable and likely to be incurred by it during each production year for the maintenance and functioning of the committee and for such other purposes as the Secretary may, pursuant to the provisions of this part, determine to be appropriate.

[69 FR 17850, Apr. 4, 2004. Redesignated at 74 FR 56541, Nov. 2, 2009]

### § 983.71 Assessments.

(a) Each handler who receives pistachios for processing in each production year, except as provided in § 983.58, shall pay the committee on demand, an assessment based on the *pro rata* share of the expenses authorized by the Secretary for that year attributable to the assessed weight of pistachios received by that handler in that year.

(b) The committee, prior to the beginning of each production year, shall recommend and the Secretary shall set the assessment for the following production year, which shall not exceed one-half of one percent of the average